

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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TOM CURTIS DOWDY,

Plaintiff,

v.

DODGE CORR. INST.,

Defendant.

ORDER

24-cv-198-jdp

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On April 26, 2024, I dismissed plaintiff Tom Curtis Dowdy's complaint for failure to state a claim upon which relief may be granted, but I gave him until May 28, 2024, to amend the complaint to fix that problem. Dkt. 5. Dowdy didn't amend the complaint by the deadline, so I dismissed the complaint for failure to state a claim and imposed a strike under 28 U.S.C. § 1915(g). Dkt. 6.

Dowdy moves for reconsideration. Dkt. 8. Dowdy says that he submitted his amended complaint to prison authorities for mailing on April 30, 2024. Dkt. 9. Dowdy believes his prison didn't send the amended complaint to the court, or that it was lost in the mail. *Id.* Dowdy supported his motion with a proposed amended complaint, and he says that he signed it on April 30, 2024. Dkt. 10.

I will consider Dowdy's motion to be made under Federal Rule of Civil Procedure 59(e) because he filed it within 28 days of my final judgment. *See* Fed. R. Civ. P. 59(e). To prevail on a motion for reconsideration under Rule 59(e), Dowdy "must present either newly discovered evidence or establish a manifest error of law or fact." *Oto v. Metro. Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000).

Dowdy hasn't shown that I committed clear error in determining that he failed to timely file an amended complaint. Dowdy hasn't provided any records from his prison substantiating his bare assertion that he submitted the amended complaint to prison authorities for mailing on April 30, 2024. The amended complaint bears that date but, because of the ease of backdating documents, that evidence isn't compelling. Also, the court has received several other filings from Dowdy in this and the other cases that he's filed in this court, all of which he's filed while housed at the same prison. *See* Case Nos. 24-cv-130-jdp, 24-cv-131-jdp, and 24-cv-197-jdp. Dowdy hasn't explained why the court received other filings in these cases but didn't receive his amended complaint. I will deny the motion for reconsideration.

#### ORDER

IT IS ORDERED that:

1. Plaintiff Tom Curtis Dowdy's motion for reconsideration, Dkt. 8, is DENIED.
2. Plaintiff's proposed amended complaint, Dkt. 10, is DENIED as moot.
3. The clerk is directed to send plaintiff a copy of this order.

Entered September 4, 2024.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge